

Message

---

**From:** McNally, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EFA5514317E34B9895687D73730FDDE9-ROBERT MCNALLY]  
**Sent:** 12/9/2016 3:59:07 PM  
**To:** Keigwin, Richard [Keigwin.Richard@epa.gov]  
**CC:** Hartman, Mark [Hartman.Mark@epa.gov]; Leahy, John [Leahy.John@epa.gov]; Mendelsohn, Mike [Mendelsohn.Mike@epa.gov]  
**Subject:** RE: Request from USDA that EPA be a Cooperating Agency on a NEPA EIS

Seeking it but no response as of yet.

bob

-----Original Message-----

From: Keigwin, Richard  
Sent: Friday, December 09, 2016 7:13 AM  
To: McNally, Robert <McNally.Robert@epa.gov>  
Cc: Hartman, Mark <Hartman.Mark@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Mendelsohn, Mike <Mendelsohn.Mike@epa.gov>  
Subject: Re: Request from USDA that EPA be a Cooperating Agency on a NEPA EIS

Seems to make sense that we would contribute. What has been OGC's advice?

Rick Keigwin  
Deputy Director for Programs  
Office of Pesticide Programs  
U.S. Environmental Protection Agency

Sent from my iPhone

> On Dec 6, 2016, at 6:15 PM, McNally, Robert <McNally.Robert@epa.gov> wrote:  
>  
> FYI --  
>  
> I think USDA would value us, given our pesticide registration experience, being on board as a "cooperator". A permit for commercial use for them is a pretty big deal, as opposed to deregulated status or permits for field testing.  
>  
> Our workload should not increase beyond what we would normally help them with.  
>  
> I have talked to Mike Firko and Sid about this. We told them we would get a read from OGC and get back to them.  
>  
> Let me know if you have any thoughts.  
>  
> Thanks  
>  
>  
> Bob

> -----Original Message-----

> From: Mendelsohn, Mike  
> Sent: Tuesday, December 06, 2016 3:49 PM  
> To: Mendelsohn, Mike <Mendelsohn.Mike@epa.gov>; Kaczmarek, Chris <Kaczmarek.Chris@epa.gov>  
> Cc: McNally, Robert <McNally.Robert@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Kough, John <Kough.John@epa.gov>; Wozniak, Chris <wozniak.chris@epa.gov>  
> Subject: RE: Issue for Today's OGC General -Request from USDA that EPA be a Cooperating Agency on a NEPA EIS

> Attorney Client Privileged

> Chris,

> I've added some thoughts below regarding a past 9th Circuit's ruling regarding USDA. Thanks for the earlier email. My understanding is that we will discuss at the OGC General, which I now understand is next week.

> Mike Mendelsohn, Acting Chief  
> Microbial Pesticides Branch  
> Biopesticides and Pollution Prevention Division (7511P) Office of Pesticide Programs U.S. Environmental Protection Agency

> 1200 Pennsylvania Avenue NW  
> Washington DC 20460  
> (703) 308-8715  
> (703) 463-7302 Mobile  
>  
>  
> USDA Request for EPA to Act as a Cooperating Agency on a NEPA Environmental Impact Statement  
>  
> Background  
> USDA's Biotechnology Regulatory Services is currently reviewing Southern Gardens' genetically engineered Citrus tristeza virus (CTV) that produce spinach defensins to control citrus greening under the Plant Pest Act. BPPD has reviewed these under EUP and anticipates registration applications under FIFRA and petitions under FFDCA.  
>  
> USDA considers CTV as a plant pest and will never deregulate it. This is a unique situation for them. What they are considering is to allow the wide use of GE CTV under permit. To support this wide scale permit, USDA is planning on doing an Environmental Impact Statement under NEPA. They have requested that EPA and the State of Florida be cooperating agencies. Florida has agreed.  
>  
> We are also aware that for Round Up Ready Alfalfa that USDA was regulating, the 9th Circuit Court held that EPA was the appropriate agency to make the ESA decision for glyphosate use on the herbicide tolerant plant, not USDA.  
>  
> Additionally, EPA recently supported FDA on their EA for environmental release of the Oxitec mosquito, <http://www.fda.gov/AnimalVeterinary/NewsEvents/CVMUpdates/ucm490246.htm>.  
>  
> Issue  
> BPPD requests OGC advise on the legal implications for EPA's pesticide registration action should EPA agree to be a cooperating agency on USDA's EIS.  
>  
>  
>  
>  
> -----Original Message-----  
> From: Mendelsohn, Mike [mailto:Mendelsohn.Mike@epa.gov]  
> Sent: Tuesday, December 06, 2016 8:24 AM  
> To: Kaczmarek, Chris <Kaczmarek.Chris@epa.gov>  
> Cc: McNally, Robert <McNally.Robert@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Kough, John <Kough.John@epa.gov>; Wozniak, Chris <wozniak.chris@epa.gov>  
> Subject: Issue for Today's OGC General -Request from USDA that EPA be a Cooperating Agency on a NEPA EIS  
>  
> Background:  
>  
> USDA's Biotechnology Regulatory Services is currently reviewing Southern Gardens' genetically engineered Citrus tristeza virus (CTV) that produce spinach defensins to control citrus greening under the Plant Pest Act. BPPD has reviewed these under EUP and anticipates registration applications under FIFRA and petitions under FFDCA.  
>  
> USDA considers CTV as a plant pest and will never deregulate it. This is a unique situation for them. What they are considering is to allow the wide use under permit. To support this wide scale permit, USDA is planning on doing an Environmental Impact Statement under NEPA. They have requested that EPA and the State of Florida be cooperating agencies. Florida has agreed.  
>  
> Recently, BPPD supported FDA on their EIS for environmental release of the Oxitec mosquito.  
>  
> Issue:  
>  
> BPPD requests OGC advise on the legal implications for EPA's pesticide registration action should EPA agree to be a cooperating agency on USDA's EIS.  
>  
> Sent from my iPhone  
>  
>  
> Sent from my iPhone